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8 Attorneys for Plaintiff
CHURCH OF SCIENTOLOGY
9 INTERNATIONAL

RECEIVED
JAN 23 1995
HUB LAW OFFICES

10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 FOR THE COUNTY OF MARIN

13 CHURCH OF SCIENTOLOGY)
INTERNATIONAL, a California not-)
14 for-profit religious corporation,)

15)
16)
17 Plaintiff,)

18 vs.)

19)
20)
21)
22 GERALD ARMSTRONG; DOES 1 through)
25, inclusive,)

23)
24)
25 Defendants.)

CASE NO. 157 680
[CONSOLIDATED]
CHURCH OF SCIENTOLOGY
INTERNATIONAL'S EX PARTE
APPLICATION FOR AN ORDER
STRIKING ARMSTRONG'S LATE-
FILED SUPPLEMENTAL
DECLARATION IN OPPOSITION
TO PLAINTIFF'S MOTION FOR
SUMMARY ADJUDICATION OF THE
FOURTH, SIXTH AND ELEVENTH
CAUSES OF ACTION OF SECOND
AMENDED COMPLAINT, OR, IN
THE ALTERNATIVE, FOR AN
ORDER SEALING EXHIBITS A
AND M TO SAID DECLARATION;
REQUEST FOR SANCTIONS
[C.C.P. § 437C(i)]
DATE: January 23, 1995
TIME: 9:30 a.m.
DEPT: 1
TRIAL DATE: May 18, 1995

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1 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

2 PLEASE TAKE NOTICE that on January 23, 1995, at 9:30 a.m.,
3 in Department 1 of the above-entitled Court, located at Hall of
4 Justice, 3501 Civic Center Drive, San Rafael, California,
5 plaintiff Church of Scientology International will and hereby
6 does apply for an order striking Armstrong's Supplemental
7 Declaration In Opposition to Scientology's Motion For Summary
8 Adjudication of the Fourth, Sixth and Eleventh Causes of Action
9 of Second Amended Complaint ("the Declaration"), together with
10 all of the exhibits attached thereto, or, in the alternative, for
11 an order sealing Exhibits A and M to said Declaration. Plaintiff
12 will also seek sanctions against Armstrong and his attorney, Ford
13 Greene, pursuant to Code of Civil Procedure § 437c(i) for their
14 bad faith filing of Armstrong's irrelevant Supplemental
15 Declaration in violation of the rules.

16 As grounds for this application, plaintiff states:

17 1. The Declaration and its 14 exhibits were served on
18 plaintiff six days late, without leave of Court, preventing
19 plaintiff from responding to it in a timely fashion;

20 2. Neither the Declaration nor any of the exhibits to the
21 Declaration are referenced in Armstrong's papers opposing the
22 motion, and neither the Declaration nor the exhibits offer any
23 evidence which is probative of that motion. The Declaration and
24 its attachments appear to be simply a gratuitous effort on the
25 part of Armstrong to convince the Court that he should prevail in
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1 this action because "God is on his side."¹ As this Court has
2 already held, however, "[t]he religious beliefs of the parties
3 are irrelevant in determining the issues in this action";

4 3. Exhibits A and M to the Declaration consist of altered
5 or re-created versions of highly sacred confidential scriptures
6 which are always maintained confidential as a matter of Church
7 doctrine and belief. Further, these materials are confidential
8 trade secrets belonging to the Church, which Civil Code § 3426.5
9 provides shall be protected by such measures as sealing the
10 files.

11 This application is based this notice of motion, the
12 attached Memorandum of Points and Authorities, the declarations
13 and exhibits filed in support hereof, the records and files in
14 this case and such other argument and evidence as may be adduced
15 at or before the hearing on this application.

16 Dated: January 23, 1995

Respectfully submitted,

17 Andrew H. Wilson
18 WILSON, RYAN & CAMPILONGO

19 MOXON & BARTILSON

20 By: _____
21 Laurie J. Bartilson

22 Attorneys for Plaintiff
23 CHURCH OF SCIENTOLOGY INTERNATIONAL

24 ¹ A brief glance at the Declaration will convince the Court that
25 there is absolutely nothing facetious about this statement.
26 Armstrong does not aver that anything in the declaration is based
27 on personal knowledge. The primary argument he advances is that
28 the contract which Armstrong made with the plaintiff "is
impossible and legally unenforceable because no agency other than
God can enforce it, He has not done so, and nothing He says
indicates that he will." Supplemental Dec., ¶ 3. Armstrong's
argument is a calculated and cynical attempt to ridicule
plaintiff and flout the Court's powers.

PROOF OF SERVICE

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

I am employed in the County of Los Angeles, State of California. I am over the age of eighteen (18) years and not a party to the within action. My business address is 6255 Sunset Boulevard, Suite 2000, Los Angeles, CA 90028.

On January 23, 1995, I served the foregoing document described as CHURCH OF SCIENTOLOGY INTERNATIONAL'S EX PARTE APPLICATION FOR AN ORDER STRIKING ARMSTRONG'S LATE-FILED SUPPLEMENTAL DECLARATION IN OPPOSITION TO PLAINTIFF'S MOTION FOR SUMMARY ADJUDICATION OF THE FOURTH, SIXTH AND ELEVENTH CAUSES OF ACTION OF SECOND AMENDED COMPLAINT, OR, IN THE ALTERNATIVE, FOR AN ORDER SEALING EXHIBITS A AND M TO SAID DECLARATION on interested parties in this action,

[] by placing the true copies thereof in sealed envelopes as stated on the attached mailing list;

[X] by placing [] the original [X] true copies thereof in sealed envelopes addressed as follows:

FORD GREENE
HUB Law Offices
711 Sir Francis Drake Blvd.
San Anselmo, CA 94960-1949

[x] BY FAX AND MAIL

[] *I deposited such envelope in the mail at Los Angeles, California. The envelope was mailed with postage thereon fully prepaid.

[] As follows: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more

than one day after date of deposit for mailing an affidavit.

Executed on January 23, 1995 at Los Angeles, California.

[] **** (BY PERSONAL SERVICE)** I delivered such envelopes by hand to the offices of the addressees.

Executed on _____ at Los Angeles, California.

[X] (State) I declare under penalty of the laws of the State of California that the above is true and correct.

[] (Federal) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Print or Type Name

Signature

* (By Mail, signature must be of person depositing envelope in mail slot, box or bag)

** (For personal service signature must be that of messenger)

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by placing the true copies thereof in sealed envelopes as stated on the attached mailing list;

by placing the original true copies thereof in sealed envelopes addressed as follows:

MICHAEL WALTON
700 Larkspur Landing Circle
Suite 120
Larkspur, CA 94939

BY MAIL

*I deposited such envelope in the mail at Los Angeles, California. The envelope was mailed with postage thereon fully prepaid.

As follows: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with U.S. postal service on that same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid if postal cancellation date or postage meter date is more

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